

**STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD**

MARILEE L. DE LAUER,

Charging Party,

v.

SONOMA VALLEY UNIFIED SCHOOL  
DISTRICT,

Respondent.

Case No. SF-CE-2268-E

PERB Decision No. 1522

May 13, 2003

Appearance: Marilee L. DeLauer, on her own behalf.

Before Baker, Whitehead and Neima, Members.

**DECISION**

NEIMA, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by Marilee L. DeLauer (DeLauer) of a Board agent's dismissal (attached) of her unfair practice charge. The charge alleged that the Sonoma Valley Unified School District (SVUSD) violated Educational Employment Relations Act (EERA)<sup>1</sup> section 3543.5(a)<sup>2</sup> by retaliating against DeLauer for protected activity when it failed to respond promptly to her

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<sup>1</sup> EERA is codified at Government Code section 3540 et seq.

<sup>2</sup> EERA section 3543.5 provides, in pertinent part:

It shall be unlawful for a public school employer to do any of the following:

(a) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by this chapter. For purposes of this subdivision, "employee" includes an applicant for employment or reemployment.

requests for workers' compensation forms. DeLauer's charge also reported incidents of behavior by SVUSD employees she found objectionable. The charge alleged generally that the SVUSD had retaliated for DeLauer's protected activity of filing PERB charges.

In documents submitted to the Board agent after issuance of a warning letter, DeLauer described incidents involving district employees outside the workplace which she felt were harassing and derogatory. She also asserted that there were deliberate errors in her payroll records.

Shortly after filing the charge in the instant case, DeLauer filed a charge against the California School Employees Association (CSEA) wherein she alleged that CSEA violated its duty of fair representation by failing to help her obtain a leave of absence from SVUSD or assist her in returning to her full-time position after resigning and taking a vacation.<sup>3</sup> DeLauer had previously filed charges against the Santa Rosa Junior College District, where she was a student.<sup>4</sup> She had not previously filed any charges against the SVUSD. The Board agent found that DeLauer's filing of the previous unfair practice charges constituted protected activity under EERA. The Board agent nevertheless dismissed the charge in the instant case on grounds that DeLauer failed to show that SVUSD's alleged conduct constituted "adverse action" or that it was undertaken because of DeLauer's protected activity, both of which are essential to establishing a prima facie case of discrimination for protected activity. (See Novato Unified School District (1982) PERB Decision No. 210.)

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<sup>3</sup> Case No. SF-CO-608-E; California State Employees Association (DeLauer) (2003) PERB Decision No. 1523.

<sup>4</sup> See Case No. SF-CE-2258-E, dismissal affirmed in Santa Rosa Junior College (2003) PERB Decision No. 1511; Case No. SF-CO-609-E, dismissed April 26, 2002, no appeal filed.

### DE LAUER'S APPEAL

On appeal, DeLauer objects to district representations (of unspecified origin) that she failed to return completed versions of workers' compensation forms provided to her. The Board notes that assertions by the SVUSD personnel regarding the workers' compensation forms would be immaterial to resolution of this case. The Board finds that nothing in DeLauer's submission on appeal cures the defects identified by the Board agent or indicates the Board agent's analysis was erroneous.

DeLauer also submits new, detailed allegations regarding interpersonal incidents with SVUSD personnel and court proceedings she brought against them; describes disputes and conversations regarding her payroll records and compensation; questions the intent behind various actions, statements, and tones used by SVUSD personnel; speculates regarding the party responsible and motivation for suspected tampering with her computer; alleges disparate treatment regarding permission to "ride along" on other drivers' bus routes; and objects to derogatory comments she says were made about her by SVUSD personnel.

PERB Regulation 32635(b)<sup>5</sup> provides: "Unless good cause is shown, a charging party may not present on appeal new charge allegations or new supporting evidence." DeLauer has failed to demonstrate good cause to allow presentation of her additional allegations and documents on appeal because none of those materials contain information that she could not have obtained, through reasonable diligence, prior to issuance of the Board agent's dismissal letter. Accordingly, the Board has not considered any new allegations in resolving DeLauer's appeal.

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<sup>5</sup> PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

Having reviewed the charge and attached documents, supplemental documents submitted to the Board agent, the warning and dismissal letters, and DeLauer's appeal, the Board finds that the warning and dismissal letters are free of prejudicial error and adopts them as the decision of the Board itself.

ORDER

The unfair practice charge in Case No. SF-CE-2268-E is hereby DISMISSED WITHOUT LEAVE TO AMEND.

Members Baker and Whitehead joined in this Decision.